



STATE OF CALIFORNIA
FRANCHISE TAX BOARD
Legal Branch
P. O. Box 1720
Rancho Cordova, CA 95741-1720

STEVE WESTLY
Chair
CAROLE MIGDEN
Member
DONNA ARDUIN
Member

May 31, 2004 Franchise Tax Board Litigation Roster

All cases currently active and those recently closed are listed on the roster. Activity or changes with respect to a case appear in bold-face type. Any new cases will appear in bold-face type.

A list is also provided of new cases that have been added to the roster for the month as well as a list of cases that have been closed and will be dropped from the next report.

The Franchise Tax Board posts the Litigation Roster on its Internet site. The Litigation Roster can be found at: www.ftb.ca.gov/law/Lit_roster.pdf.

The Litigation Roster on the Internet site will be the latest version. It is normally revised on a monthly basis.

FRANCHISE AND INCOME TAX

CLOSED CASES – MAY 2004

Case Name

Court Number

Marro, Donald C. & Lillian S. Clancy

San Francisco Superior Court No. CGC 02-414788

FRANCHISE AND INCOME TAX

NEW CASES – MAY 2004

Case Name

Court Number

None

MAY 2004

O'Melveny & Myers, LLP

AMERICAN GENERAL REALTY INVESTMENT CORP., INC. v. Franchise Tax Board

San Francisco Superior Court Docket No. CGC03425690

Filed – 10/23/03

Taxpayer's CounselFTB's Counsel

Roy E. Crawford, Robert J. Waldow

David Lew

Heller, Ehrman, White & McAuliffe, LLP

- Issue
1. Whether dividends received from insurance subsidiaries are, as a matter of law and fact, nonbusiness income.
 2. Whether section 24344(b) controls the allocation of interest expense.
 3. Whether section 24425 was properly applied to allocate expenses to insurance company dividends.
 4. Whether the insurance subsidiaries constitute a separate unitary business of the taxpayer.
 5. Whether the increase in the income assigned to California fairly reflects the taxpayer's business in this state.

Years 1991 Amount \$2,824,983.00

Status Discovery proceeding. **Mandatory Settlement Conference scheduled for September 1, 2004, and Trial scheduled for September 20, 2004.**

BRESLOW, BARRY & WENDY v. Franchise Tax Board

Los Angeles Superior Court Docket No. 03K20961

Filed – 12/02/03

Taxpayer's CounselFTB's Counsel

Charles P. Rettig, Steven D. Blanc & Sharyn Fisk

Felix E. Leatherwood

Hochman, Salkin, Rettig, Toscher & Perez, P.C.

- Issue
1. What portion of the Program Area Sales and Use Tax Credit passes through to shareholders in an S Corporation?
 2. Whether the Franchise Tax Board should be equitably estopped from denying the claim for refund.

Year 1994 Amount \$49,500.00

Status Case Management Review scheduled for September 13, 2004.

COLGATE-PALMOLIVE, CO. & SUBSIDIARIES v. Franchise Tax Board

Sacramento Superior Court Docket No. 03AS00707

Filed – 02/07/03

Taxpayer's CounselFTB's Counsel

Eric J. Coffill, Carley A. Roberts

Steven J. Green

Morrison & Foerster, LLP

- Issue
1. Whether the sales factor was properly calculated by excluding proceeds from short-term financial instruments and value added taxes assessed by foreign countries.
 2. Whether the property factor needs to be adjusted to value property at its appreciated value to fairly reflect its activities in California.

Years 1974-1982, 1984-1987, 1989-1991 Amount \$2,912,696.00

Status Trial Setting Conference scheduled for July 6, 2004. Discovery proceeding.

EDUCATIONAL EMPLOYEES CREDIT UNION, et al. v. Franchise Tax Board

Sacramento Superior Court Docket No. 511821

Filed - 12/20/89

Court of Appeal, 3rd Appellate District, No. 3-CV-C020733

Taxpayer's Counsel

FTB's Counsel

Joanne Garvey, & Teresa Maloney

Steven Green

Heller, Ehrman, White & McAuliffe

Issue Whether defendant's determination as to the methodology for deduction of indirect expenses against taxable investment income was proper.

Years 1980 through 1985 Amount \$1,137,006.98

Status On Appeal for decision in favor of Defendant/Respondent, waiting for Court of Appeal to set date for Oral Argument.

FARMER BROS. CO. v. Franchise Tax Board

Los Angeles Superior Court Docket No. BC237663

Filed – 09/29/00

Court of Appeal, 2nd Appellate District Court No. 160061

California Supreme Court No. S117131

U.S. Supreme Court No. 03-776

Taxpayer's Counsel

Counsel of Record

Robin C. Campbell, Esq.

Benjamin F. Miller

Anglin, Flewelling, Rasmussen, Campbell & Trytten, LLP

Issue Whether Section 24402 of the Revenue and Taxation Code is unconstitutional under the United States Constitution.

Years 06/30/92 through 6/30/98 Amount \$814,705.00

Status Petition for Writ of Certiorari denied on February 23, 2004.

FREIDBERG, EDWARD & TRACI E. REYNOLDS v. Franchise Tax Board

San Francisco Superior Court Docket No. CGC-02-404182

Filed – 02/06/02

Taxpayer's Counsel

FTB's Counsel

John E. Cassinat & Ronald L. Carello

Marguerite Stricklin

Cassinat Law Corporation

Issues

1. Whether Plaintiffs' "horse breeding and racing business expenses" were deductible as business expenses in the years involved.
2. Whether expenses incurred by plaintiffs in horse breeding and racing activities were deductible as business expenses in the years involved.

<u>Years</u>	1991 through 1994	<u>Amount</u>	\$149,696.00
<u>Status</u>	Plaintiffs' Memorandum of Costs and Disbursements for Total Costs, filed March 3, 2004.		

GENERAL MOTORS CORPORATION, et al. v. Franchise Tax Board

Los Angeles Superior Court Docket No. BC269404
Court of Appeal, 2nd Appellate District No. B165665

Filed – 03/06/02

Taxpayer's Counsel

Charles R. Ajalat

Law Office of Ajalat, Polley & Ayoob

FTB's Counsel

Stephen Lew, Donald

Currier & Joseph O'Heron

- Issues
1. Whether gross receipts from the disposition of marketable securities were properly excluded from the sales factor.
 2. Whether interest income was properly characterized as business income.
 3. Whether dividends received with respect to stock representing less than a 50% voting interest were properly classified as business income.
 4. Whether the limitation on deductions prescribed by sections 24402 and 24410 resulted in unconstitutional discriminatory taxation.
 5. Whether various receipts from intangible assets were properly excluded from the sales factor.
 6. Whether research tax credits were properly limited to the entity incurring the expense.
 7. Whether a deduction was properly denied with respect to foreign country taxes withheld on dividends.
 8. Whether the taxpayer is entitled to an increased deduction with respect to depreciation on assets held by foreign country subsidiaries.
 9. Whether the taxes determined to be owing by the Franchise Tax Board were properly computed and assessed.

<u>Years</u>	1986 through 1988	<u>Amount</u>	\$10,692,755.00
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Status Awaiting Court of Appeal Ruling.

HAMEETMAN, FRED AND JOYCE v. Franchise Tax Board

Los Angeles Superior Court Docket No. BC 305968

Filed – 11/12/03

Taxpayer's Counsel

Eric L. Troff, Esq.

Gibbs, Giden, Locher & Turner, LLP

FTB's Counsel

Donald Currier

Issue Whether Plaintiffs were entitled to a business bad debt reduction.

<u>Years</u>	1990 & 1993	<u>Amount</u>	\$65,738.00
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Status Trial scheduled for November 29, 2004.

HARDIE, GEORGE G. v. Franchise Tax Board

Los Angeles Superior Court Docket No. BC292256

Taxpayer's CounselRichard E. Posell, Gregory P. Korn
Greenberg, Glusker, Fields, Claman,
Machtiger & Kinsella, LLP

Filed – 03/18/03

FTB's CounselAnthony Sgherzi
George M. Takenouchi

Issue Whether Plaintiff was a resident of California for the year in issue.

Years 1993 Amount \$1,172,932.00

Status Final Status Conference scheduled for July 8, 2004; Trial scheduled for July 12, 2004.

HYATT, GILBERT P. v. Franchise Tax Board

Clark County Nevada District Court No. A382999

Taxpayer's CounselThomas L. Steffen & Mark A. Hutchison
Hutchison & Steffen
H. Bartow Farr III

Filed - 01/06/98

FTB's Counsel

Felix Leatherwood

Issues

1. Whether plaintiff was a resident of California from September 26, 1991 through April 2, 1992.
2. Whether the Franchise Tax Board committed various torts with respect to plaintiff and is subject to a claim for damages.
3. Whether the Nevada courts have or should exercise jurisdiction over the Franchise Tax Board.

Years 1991 and 1992 Amount \$13,204,611.00

Status Clark County District Court:
Hearing on Motion for Pretrial Conference held on January 26, 2004, and Scheduling Order entered.

JIM BEAM BRANDS CO. v. Franchise Tax Board

San Francisco Superior Court No. CGC-02-408203

Taxpayer's CounselEdwin P. Antolin
Silverstein & Pomerantz
Jordan M. Goodman, Brian L. Browdy
Horwood, Marcus & Berk

Filed - 05/21/02

FTB's Counsel

George C. Spanos

Issues

1. Whether the gain realized on the sale of all of the stock of a subsidiary was properly classified as business income.
2. Assuming the gain on the sale of all of the stock was business, whether the FTB properly computed the basis of the stock.

Year 1987 Amount \$133,042.00

Status **Order Regarding Continuance of Trial to June 28, 2004. Order Denying Plaintiff's Motion for Summary Judgment and Granting Defendant's Motion for Summary Judgment filed May 20, 2004.**

JPMORGAN CHASE BANK, as Trustee of The Long Term Investment v. Franchise Tax Board			
Los Angeles Superior Court Docket No. BC 312094		Filed – 03/12/04	
<u>Taxpayer's Counsel</u>		<u>FTB's Counsel</u>	
Jeffrey G. Varga, Ethan Lipsig		Donald R. Currier	
Paul, Hastings, Janofsky & Walker, LLP			

Issue Whether Revenue and Taxation Code section 17651 is preempted by 29 USC § 1144 (a).

Years 1994, 1997 through 2000 Amount \$2,905,255.00

Status Plaintiff's Summons and Complaint filed on March 12, 2004, and served on Franchise Tax Board on April 22, 2004. **Case Management Conference scheduled for July 30, 2004.**

K-MART, CORPORATION, et al. v. Franchise Tax Board			
U.S. Bankruptcy Court for the Northern District of Illinois		Filed – 04/11/03	
Bankruptcy No. 02-B02474 – Adversary Proceeding No. 03A01420			
<u>Taxpayer's Counsel</u>		<u>FTB's Counsel</u>	
Charles F. Smith		Michael Cornez	
Skadden, Arps, Slate, Meagher & Flom		Larry Fischer	

Issue

1. Whether gain realized on the sale of 20+% interest in an Australian retailer, Coles, was business income.
2. Whether the gain realized on the sale of the interest in Coles was properly treated for AMT purposes.
3. Whether dividends and interest received with respect to Coles was business income.
4. Whether the taxpayer's request to account for its Canadian inventory on a LIFO basis was properly denied.
5. Whether two insurance subsidiaries were properly excluded from the combined report.
6. If the insurance subsidiaries were includible in the combined report, whether adjustments need to be made to the property and sales factors.
7. Whether proceeds from the short-term investment of financial assets were properly excluded from the sales factor.
8. Whether section 24402 is constitutional.
9. Whether adjustments based upon federal RAR's were correctly made.
10. Whether there were other unspecified errors in adjustments made or not made to the taxpayer's returns.
11. Whether an under-payment penalty was properly imposed.

Years 1986-1989, 1992-1994, Amount \$3,524,625.00 - Tax
1999 & 2000 \$ 82,590.01 - Penalty

Status **Status Conference scheduled for June 15, 2004.**

THE LIMITED STORES, INC. AND AFFILIATES v. Franchise Tax Board

Alameda Superior Court Docket No. 837723-0

Filed – 04/09/01

Court of Appeal, 1st Appellate District Court No. A102915

Taxpayer's Counsel

FTB's Counsel

Edwin P. Antolin

Joyce Hee

Morrison & Foerster, LLP

- Issues
1. Whether gross receipts from the sale of short-term financial instruments should be included in the sales factor.
 2. Whether gain realized on the sale of a partial interest in a limited partnership formed from three subsidiaries constitutes business income.

Years 1993 and 1994 Amount \$2,185,718.00

Status **Plaintiff/Appellants' Reply Brief filed on May 10, 2004.**

MARKEN, DONALD W. & CLAUDINE H v. Franchise Tax Board

San Francisco Superior Court Docket No. 302520

Filed - 04/05/99

Court of Appeal, 1st Appellate Dist. No. A091644

California Supreme Court No. S 104529

Taxpayer's Counsel

FTB's Counsel

William E. Taggart, Jr.

Marguerite Stricklin

Taggart & Hawkins

Issue Whether plaintiffs were residents of California in 1993.

Year 1993 Amount \$244,012.00

Status **Defendant's Opening Brief for Trial on Remand to be filed June 15, 2004.**

THE MCGRAW-HILL COMPANIES, INC., a New York Corporation v. Franchise Tax Board

San Francisco Superior Court Docket No. CGC 03424737

Filed - 09/24/03

Taxpayer's Counsel

FTB's Counsel

Jeffrey M. Vesely, Richard E. Nielsen & Annie H. Huang

Anne Michelle Burr

Pillsbury Winthrop, LLP

- Issue
1. Whether Plaintiff was entitled to use Marked-to-Market accounting allowed under the Internal Revenue Code when those provisions had not been adopted by California.
 2. Whether other adjustments made or allowed by the Internal Revenue Service should be allowed by California.

Years 1993 and 1994 Amount \$606,744.00

Status Trial scheduled for August 23, 2004. **Plaintiff's Motion for Summary Judgment filed May 7, 2004.**

San Francisco Superior Court Docket No. 400444
Court of Appeal, 1st Appellate Dist. Div. 3 No. A105312

Filed – 10/19/01

Taxpayer's Counsel

FTB's Counsel

James P. Kleier, Esq.

Julian O. Standen

Preston Gates & Ellis, LLP

Issues

1. Whether the denominator of the receipts factor was properly calculated by excluding receipts from marketable securities.
2. Whether the limitation on the deduction of dividends provided for in Section 24402 discriminates.
3. Whether adjustments made to increase the income of controlled foreign corporations included in the combined report were proper.

Year

1991

Amount

\$1,879,809.00

Status

Defendant/Appellant's Opening Brief filed May 10, 2004.

MILHOUS, PAUL B. & MARY A. v. Franchise Tax Board

San Diego Superior Court Docket No. GIC772282

Filed – 08/27/01

Court of Appeal, 4th Appellate Dist. Division 1, No. D043058

Court of Appeal, 4th Appellate Dist. Division 1, No. D044362

Taxpayer's Counsel

FTB's Counsel

Steve Mather.

Leslie Branman-Smith

Kajan, Mather and Barish

Issue

Whether the taxpayers had California source income arising from the execution of a covenant-not-to-compete as part of the sale of plaintiffs' minority interest in a business.

Year

1993

Amount

\$227,246.00

Status

Defendant/Appellant's Notice of Appeal filed May 6, 2004. Joint Application for Order re: Supplemental Briefing scheduled on Post-Judgment award of attorneys' fees and costs filed May 13, 2004. Plaintiffs/Respondents' Opening Brief, Request for Judicial Notice filed May 17, 2004. Declaration re: Attachments to Plaintiffs/Respondents' Brief and Cross-Appellant's Opening Brief filed May 19, 2004. Order filed on May 25, 2004. The Joint Application for Order re: Supplemental Briefing Schedule and Post-Judgment Award of Attorneys' Fees and Costs filed on May 13, 2004, is denied as moot in light of Defendant/Respondent's Notice of Appeal filed on May 6, 2004. Plaintiffs/Respondents' Notice of Appeal filed May 28, 2004.

MILHOUS, ROBERT E. & GAIL P. v. Franchise Tax Board San Diego Superior Court Docket No. GIC773381 Court of Appeal, 4th Appellate Dist. Division 1, No. D043058 Court of Appeal, 4th Appellate Dist. Division 1, No. D044362		Filed – 08/27/01
<u>Taxpayer's Counsel</u> Steve Mather. Kajan, Mather and Barish	<u>FTB's Counsel</u> Leslie Branman-Smith	

Issue Whether the taxpayers had California source income arising from the execution of a covenant-not-to-compete as part of the sale of plaintiffs' minority interest in a business.

Year 1993 Amount \$670,825.00

Status **Defendant/Appellant's Notice of Appeal filed May 6, 2004. Joint Application for Order re: Supplemental Briefing scheduled on Post-Judgment award of attorneys' fees and costs filed May 13, 2004. Plaintiffs/Respondents' Opening Brief, Request for Judicial Notice filed May 17, 2004. Declaration re: Attachments to Plaintiffs/Respondents' Brief and Cross-Appellant's Opening Brief filed May 19, 2004. Order filed on May 25, 2004. The Joint Application for Order re: Supplemental Briefing Schedule and Post-Judgment Award of Attorneys' Fees and Costs filed on May 13, 2004, is denied as moot in light of Defendant/Respondent's Notice of Appeal filed on May 6, 2004. Plaintiffs/Respondents' Notice of Appeal filed May 28, 2004.**

MONTGOMERY WARD LLC v. Franchise Tax Board San Diego Superior Court Docket No. GIC802767		Filed – 12/30/02
<u>Taxpayer's Counsel</u> Antolin, Pilar M. Sansone, Amy Silverstein Silverstein & Pomerantz, LLP	<u>FTB's Counsel</u> Gregory Price	

Issues 1. Whether proceeds from the sale, maturity or other disposition of short-term financial instruments were properly excluded from the sales factor.
2. Whether section 24402 Rev. & Tax. Code is constitutional.

Years 1989 through 1994 Amount \$2,694,192.00

Status **Status Conference held on May 14, 2004; Case deferred pending outcome of General Motors. Case Management Conference scheduled for September 17, 2004.**

NEW GAMING SYSTEMS, INC. v. Franchise Tax Board U.S. District Court For The Eastern Dist. No. CIVS-03-1126		Filed – 05/27/03
	First Amended Complaint	Filed – 08/25/03
<u>Taxpayer's Counsel</u> Spencer T. Malysiak Spencer T. Malysiak Law Corp.	<u>FTB's Counsel</u> Michael J. Cornez	

Issue 1. Whether the federal courts have jurisdiction to review a denial of a claim for refund of state taxes and issue a declaratory judgment as to plaintiff's liability for state taxes.
 2. Whether the Indian Gaming Regulatory Act (25 U.S.C. 2701) pre-empts state taxation of income earned by non-Indians from operating a casino.
 3. Whether an action can be maintained in federal court against the Board Members and Executive Officer as individuals under the *Ex Parte Young* doctrine to enjoin the collection of state taxes.

Years 1996 Amount \$2,562.93

Status **Defendants', Steve Westly, Carole Migden, Steve Peace, and Gerald H. Goldberg, Reply to Plaintiff's Opposition to Defendants' Motion to Dismiss Complaint filed May 7, 2004. Hearing on Motion to Dismiss held on May 17, 2004.**

NEW GAMING SYSTEMS, INC. & AKA INDUSTRIES, INC. v. Franchise Tax Board

Sacramento Superior Court Docket No. 03AS05705

Filed – 10/10/03

Taxpayer's Counsel

FTB's Counsel

Spencer T. Malysiak

Michael Cornez

Spencer T. Malysiak Law Corp.

Issue 1. Whether New Gaming Systems, Inc., timely filed its suit for refund for the income year ended March 31, 1996.
 2. Whether a declaratory relief action can be brought to prevent the collection of tax.
 3. Whether a suit for refund can be maintained for a year in which the amount of tax has not been paid in full.
 4. Whether Plaintiffs are liable for California taxes on income generated from leases for operating Indian casinos.

Years 1996 and 1997 Amount \$90,773.05

Status **Defendant's Demurrer to Second Amended Complaint filed May 14, 2004.**

NOBLE, HOMER E. AND STEPHANIE F. v. Franchise Tax Board

Los Angeles Superior Court Docket No. BC273634

Filed - 05/09/02

Court of Appeal, 2nd Appellate Dist. No. B167881

Taxpayer's Counsel

FTB's Counsel

Richard W. Craigo

Anthony Sgherzi

Attorney At Law

Issue The issue is on what date during 1994 did plaintiffs cease to be residents and domiciliaries of California?

Year 1994 Amount \$151,632.00

Status **Hearing held on May 4, 2004. Opinion filed on May 11, 2004.**

ORDLOCK, BAYARD M. & LOIS S. v. Franchise Tax Board

Los Angeles Superior Court Case No. BC278386

Filed – 07/25/02

Court of Appeal, 2nd Appellate Dist. No. B169465*Taxpayer's Counsel**FTB's Counsel*

Richard C. Field

Michael R. Weiss

Bingham McCutchen LLP

Issue Whether the tax involved was timely assessed.Year 1983 Amount \$12,350.00Status Defendant/Respondent's Brief filed on April 2, 2004. Plaintiff/Appellants' Reply Brief filed on April 22, 2004.**OTN, INC. & AFFILIATES v. Franchise Tax Board**

Los Angeles Superior Court Docket No. BC301102

Filed – 08/20/03

*Taxpayer's Counsel**FTB's Counsel*

Thomas K. Bourke

Anthony Sgherzi

Law Office of Thomas K. Bourke

Issue Whether Plaintiff is entitled to a deduction for bad debts.Years 1995 Amount \$1,447,375.00Status Trial scheduled for September 13, 2004.**PACIFIC TELESIS GROUP, INC. v. Franchise Tax Board**

San Francisco Superior Court Docket No. 319008

Filed – 02/20/01

Court of Appeal, 1st Appellate Dist. Div. 2 No. A104602*Taxpayer's Counsel**FTB's Counsel*

Allan L. Schare

David Lew

McDermott, Will & Emery

Anne M. Burr

Issue What is the proper amount of depreciation deduction with respect to property acquired from former unitary affiliates?Years 1987 through 1990 Amount \$9,960,422.00Status Defendant/Respondent's Stipulation of Extension of Time to file Reply Brief, filed April 19, 2004.

PAINE, THOMAS & TERESA A. NORTON v. Franchise Tax Board

San Francisco Superior Court Docket No. 324518

Filed – 09/13/01

Appellate Court – 1st Appellate Dist. Court No. A102401Taxpayer's CounselFTB's Counsel

Edward Winslow

Marguerite Stricklin

Layman, Lempert & Winslow

Issues

1. Whether the plaintiffs became residents of California on April 10, 1990.
2. Whether "guaranteed payments" received by plaintiffs while residents of California from a partnership could be included in the income taxed by California.

Years

1990, 1996 through 1999

Amount

\$144,278.00

Status**Plaintiff/Respondent's Petition for Rehearing filed on May 13, 2004. Order Denying Petition for Rehearing filed May 28, 2004.****THE PILLSBURY COMPANY, a Delaware Corp. v. Franchise Tax Board**

San Francisco Superior Court Docket No. 414931

Filed – 11/21/02

Appellate Court – 1st Appellate Dist. Court No. A105155Taxpayer's CounselFTB's Counsel

Jeffrey M. Vesely, Esq.

David Lew

Richard E. Nielsen, Esq.

Pillsbury Winthrop, LLP

Issue

Whether California definition of gross income incorporated amendments to the Internal Revenue Code dealing with losses of Alaska Native Corporation.

Years

1986 and 1987

Amount

\$1,133,040.00

Status

Plaintiff/Appellant's Opening Brief and Joint Appendix filed April 1, 2004.

TOY'S "R" US, Inc. & Affiliates v. Franchise Tax Board

Sacramento Superior Court Docket No. 01AS04316

Filed - 07/17/01

Court of Appeal, 4th Appellate Court No. C045386Taxpayer's CounselFTB's Counsel

Eric J. Coffill

Michael J. Cornez

Carley A. Roberts

Issue

Whether gross receipts from the sale of short-term financial investment were properly excluded from the documentation of the sales factor.

Years

1991 through 1994

Amount

\$5,342,122.00

Status

Plaintiffs/Appellants' Opening Brief filed March 19, 2004.

VENTAS, INC. & SUBSIDIARIES v. Franchise Tax Board	
San Francisco Superior Court Docket No. CGC03423154	Filed – 08/05/03
<u>Taxpayer's Counsel</u>	<u>FTB's Counsel</u>
Amy L. Silverstein	Paul Gifford
Silverstein & Pomerantz, LLP	

Issue Whether Plaintiff elected to use the mark-to-market method of accounting for California purposes.

Years 1997 Amount \$205,874.00

Status **Trial held on May 17, 2004; Court Trial continued to June 30, 2004.**

WEINGARTEN, SAUL M. v. Franchise Tax Board	
San Francisco Superior Court Docket No. 996766	Filed - 7/28/98
<u>Taxpayer's Counsel</u>	<u>FTB's Counsel</u>
Saul M. Weingarten	Marguerite Stricklin
Saul M. Weingarten & Associates	

Issues

1. Whether the Board of Equalization followed proper procedures in considering the taxpayer's appeal.
2. Whether taxpayer's real estate investments were subject to passive activity loss limitations.
3. Whether FTB properly calculated depreciation with respect to various properties.
4. Whether FTB properly calculated the sales price of a piece of property sold by the taxpayer.
5. Whether penalties were improperly imposed.

Years 1987 through 1989 Amount \$88,966.00 Tax
\$22,241.75 Penalty

Status Motion to Dismiss will be filed in June, 2004, or July 2004.

YOO, Won S. and Insook v. Franchise Tax Board	
San Diego Superior Court Docket No. GIC807106	Filed – 03/13/03
<u>Taxpayer's Counsel</u>	<u>FTB's Counsel</u>
Daniel J. Cooper, Esq.	Leslie Branman Smith
Law Offices of Daniel J. Cooper	

Issue Whether the taxpayers are entitled to a charitable deduction on the sale of property to The Nature Conservatory.

Years 1991 and 1994 Amount \$178,858.00

Status **Waiting for Dismissal by Plaintiffs.**

YOSHINOYA WEST, INC. v. Franchise Tax Board

Los Angeles Superior Court, Central District No. BC274343

Taxpayer's Counsel

Dwayne M. Horii

William C. Choi

Rodriguez, Horii & Choi

Filed - 05/22/02

FTB's Counsel

Donald R. Currier

- Issues
1. Whether Yoshinoya West, Inc. is involved in a unitary business with its Japanese parent company.
 2. Whether application of the standard allocation and apportionment provision of the Revenue and Taxation Code disproportionately taxed Yoshinoya West.

<u>Years</u>	1986 and 1987	<u>Amount</u>	\$1,741,534.00
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Status Trial continued and concluded on April 15, 2004.